

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARIA D. PADILLA,

Plaintiff,

v.

HON. SHERI BLUEBOND,

Defendant.

No. 2:23-cv-0236 KJM DB PS

FINDINGS AND RECOMMENDATIONS

Plaintiff Maria D. Padilla is proceeding in this action pro se. This matter was referred to the undersigned in accordance with Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1). Pending before the court are plaintiff's complaint and motion to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. (ECF Nos. 1 & 2.) The complaint alleges that plaintiff's rights were violated as the result of "an erroneous court order" issued by the defendant. (Compl. (ECF No. 1) at 1.)

The court is required to screen complaints brought by parties proceeding in forma pauperis. See 28 U.S.C. § 1915(e)(2); see also Lopez v. Smith, 203 F.3d 1122, 1129 (9th Cir. 2000) (en banc). Here, plaintiff's complaint is deficient. Accordingly, for the reasons stated below, the undersigned will recommend that plaintiff's complaint be dismissed without leave to amend.

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I. Plaintiff's Application to Proceed In Forma Pauperis

Plaintiff's in forma pauperis application makes the financial showing required by 28 U.S.C. § 1915(a)(1). However, a determination that a plaintiff qualifies financially for in forma pauperis status does not complete the inquiry required by the statute. "A district court may deny leave to proceed in forma pauperis at the outset if it appears from the face of the proposed complaint that the action is frivolous or without merit." Minetti v. Port of Seattle, 152 F.3d 1113, 1115 (9th Cir. 1998) (quoting Tripati v. First Nat. Bank & Trust, 821 F.2d 1368, 1370 (9th Cir. 1987)); see also McGee v. Department of Child Support Services, 584 Fed. Appx. 638 (9th Cir. 2014) ("the district court did not abuse its discretion by denying McGee's request to proceed IFP because it appears from the face of the amended complaint that McGee's action is frivolous or without merit"); Smart v. Heinze, 347 F.2d 114, 116 (9th Cir. 1965) ("It is the duty of the District Court to examine any application for leave to proceed in forma pauperis to determine whether the proposed proceeding has merit and if it appears that the proceeding is without merit, the court is bound to deny a motion seeking leave to proceed in forma pauperis.").

Moreover, the court must dismiss an in forma pauperis case at any time if the allegation of poverty is found to be untrue or if it is determined that the action is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against an immune defendant. See 28 U.S.C. § 1915(e)(2). A complaint is legally frivolous when it lacks an arguable basis in law or in fact. Neitzke v. Williams, 490 U.S. 319, 325 (1989); Franklin v. Murphy, 745 F.2d 1221, 1227-28 (9th Cir. 1984). Under this standard, a court must dismiss a complaint as frivolous where it is based on an indisputably meritless legal theory or where the factual contentions are clearly baseless. Neitzke, 490 U.S. at 327; 28 U.S.C. § 1915(e).

To state a claim on which relief may be granted, the plaintiff must allege "enough facts to state a claim to relief that is plausible on its face." Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007). In considering whether a complaint states a cognizable claim, the court accepts as true the material allegations in the complaint and construes the allegations in the light most favorable to the plaintiff. Hishon v. King & Spalding, 467 U.S. 69, 73 (1984); Hosp. Bldg. Co. v. Trustees of Rex Hosp., 425 U.S. 738, 740 (1976); Love v. United States, 915 F.2d 1242, 1245

(9th Cir. 1989). Pro se pleadings are held to a less stringent standard than those drafted by lawyers. Haines v. Kerner, 404 U.S. 519, 520 (1972). However, the court need not accept as true conclusory allegations, unreasonable inferences, or unwarranted deductions of fact. Western Mining Council v. Watt, 643 F.2d 618, 624 (9th Cir. 1981).

The minimum requirements for a civil complaint in federal court, as explained by Rule 8 of the Federal Rules of Civil Procedure (“Rules”), are as follows:

A pleading which sets forth a claim for relief . . . shall contain (1) a short and plain statement of the grounds upon which the court’s jurisdiction depends . . . , (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief the pleader seeks.

Fed. R. Civ. P. 8(a).

II. Plaintiff’s Complaint

The complaint alleges that the Honorable Sheri Bluebond, a judge in the United States Bankruptcy Court for the Central District of California, issued “an erroneous order” that “ordered for a foreclosure” resulting in plaintiff being evicted. (Compl. (ECF No. 1) at 1-2.) The complaint seeks “damages” against the defendant. (Id.)

However, judges are generally absolutely immune from civil liability for actions taken in their judicial capacity. Mireles v. Waco, 502 U.S. 9, 11-12 (1991). A judge is “subject to liability only when he has acted in the ‘clear absence of all jurisdiction.’” Stump v. Sparkman, 435 U.S. 349, 356-57 (1978) (quoting Bradley v. Fisher, 13 Wall. 335, 351 (1872)). A judge will not be deprived of immunity because the action she took “was in error, was done maliciously, or was in excess of [her] authority.” Stump v. Sparkman, 435 U.S. at 356. Moreover, a judge’s jurisdiction is quite broad. “[T]he factors determining whether an act by a judge is a ‘judicial’ one relates to the nature of the act itself, i.e., whether it is a function normally performed by a judge, and to the expectations of the parties, i.e., whether they dealt with the judge in his judicial capacity.” Partington v. Gedan, 961 F.2d 852, 866 (9th Cir. 1992) (quoting Stump v. Sparkman, 435 U.S. at 362); see also Mireles v. Waco, 502 U.S. 9, 13 (1991) (in determining whether judicial immunity applies, court looks to the “particular act’s relation to a general function

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1 normally performed by a judge”); Meek v. County of Riverside, 183 F.3d 962, 967 (9th Cir.
2 1999).

3 Here, the complaint is seeking civil liability against a judge for actions taken in their
4 judicial capacity. As such, the complaint should be dismissed. See Patel v. DeCarolus, 701 Fed.
5 Appx. 590, 591 (9th Cir. 2017) (“The district court properly dismissed Patel’s damages claims
6 against Judge Pacheco on the basis of judicial immunity because the claims arose out of Judge
7 Pacheco’s judicial acts.”).

8 **III. Leave to Amend**

9 For the reasons stated above, plaintiff’s complaint should be dismissed. The undersigned
10 has carefully considered whether plaintiff may amend the complaint to state a claim upon which
11 relief can be granted. “Valid reasons for denying leave to amend include undue delay, bad faith,
12 prejudice, and futility.” California Architectural Bldg. Prod. v. Franciscan Ceramics, 818 F.2d
13 1466, 1472 (9th Cir. 1988); see also Klamath-Lake Pharm. Ass’n v. Klamath Med. Serv. Bureau,
14 701 F.2d 1276, 1293 (9th Cir. 1983) (holding that while leave to amend shall be freely given, the
15 court does not have to allow futile amendments).

16 Here, given the defects noted above, the undersigned finds that granting plaintiff leave to
17 amend would be futile.

18 **CONCLUSION**

19 Accordingly, for the reasons stated above, IT IS HEREBY RECOMMENDED that:

- 20 1. Plaintiff’s February 8, 2023 application to proceed in forma pauperis (ECF No. 2) be
21 denied;
- 22 2. The complaint filed on February 8, 2023, be dismissed without prejudice; and
- 23 3. This action be dismissed.

24 These findings and recommendations will be submitted to the United States District Judge
25 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
26 after being served with these findings and recommendations, plaintiff may file written objections
27 with the court. A document containing objections should be titled “Objections to Magistrate
28 Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file objections within

1 /the specified time may, under certain circumstances, waive the right to appeal the District
2 Court's order. See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

3 DATED: May 4, 2023

/s/ DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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